

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,	*	Case No. 3:22-CR-00274-JRK-1
	*	
Plaintiff.	*	Judge James R. Knapp II
	*	
	*	<u>SUPPLEMENTAL</u>
	*	<u>DEMAND FOR DISCOVERY</u>
	*	
vs.	*	David Klucas (0041188)
	*	DaveK@Buckeye-Access.com
	*	1900 Monroe Street
	*	Toledo, Ohio 43604
	*	419-255-1102 (P)
	*	419-255-1415 (F)
	*	
	*	Kenneth R. Bailey (0090042)
	*	Ken@Bailey.pro
	*	BAILEY LEGAL GROUP
AMANDA HOVANEC,	*	220 West Market Street
	*	Sandusky, Ohio 44870
Defendant.	*	419-625-6740

Now comes the Accused, AMANDA HOVANEC, by and through her Counsel, Kenneth R. Bailey, and hereby requests Plaintiff, United States of America, to provide the Accused with discovery relevant to the above captioned matter, pursuant to United States Constitution, Amendments V, VI, and XIV and Crim. R. 16.

The Accused requests you permit the inspection, copying, and/or photographing all of the following items which are available to, or within the possession, control, or custody of the prosecution, the existence of which is known or by the exercise of due diligence may become known to the Prosecuting Attorney, including but not limited to:



1. **Expert(s)' Report(s) and Curriculum Vitae.** All written reports summarizing an expert witness's testimony, findings, analysis, conclusions, or opinions, and shall include a summary of the expert's qualifications.
2. **Standard Discovery Packet from Crime Lab.** The Standard Discovery Packet from the any crime lab, FBI, BCI, or any other involved crime lab or coroner's office, as usually provided for drug tests, blood, and urine samples, including photographs, chain of custody, technician notes, testing results, Gas Chromatography and Mass Spectroscopy (GC/MS) testing graphs and data, certifications of the laboratory, Department of Health surveys from the most recent three years, and certifications of the technician.
3. **Qualitative Confirmation Procedure Manual.** The entire procedure manual for quantitative confirmation of substances or metabolites in tested items, including but not limited to, urine or blood samples.
4. **Maintenance & Repair Logs.** The maintenance and repair logs for any testing device used, including but not limited to, any Universal Forensic Extraction Device, Gas Chromatograph, Mass Spectrometer, or other machine.
5. **Calibration Standards Certificates.** Certificates for the calibration standards used for the calibration of any testing devices used including dates of expiry and dates of certification.
6. **Native / Raw Data, ESI, or UFED Data.** A digital copy in its native or raw format of any Electronically Stored Information, UFED (Universal Forensic Extraction Device) data files, and/or the GC/MS data for the Lab No. assigned to the any sample.
7. **Uncertainty of Measurement.** The uncertainty of measurement for the quantitative results, if not provided on any testing reports.

8.     Validation Studies. Any validation studies to establish detection and quantification limits.

9.     Programs and Source Code. A copy of any computer program(s) and the source code for the same for any computer program utilized by the government from which the prosecution intends to have a witness testify as to the results thereof, as “[i]t is quite incomprehensible that the prosecution should tender a witness to state the results of a computer’s operations without having the program available for defense scrutiny and use on cross-examination if desired.” *United States v. Buziak*, 697 F.3d 1105, 1112 (9th Cir. 2012).

10.    Public Records. Any and all public records pertaining to the matters in this case that are public records, as defined by R.C. 149.43, that are not discoverable under Rule 16 of the Ohio Rules of Civil Procedure, see *Sanford v. Kelley*, 44 O. App. 3d 30 and *State, ex rel. Scanlon v. Deters*, 45 O. St. 3d 376, including, but not limited to incident reports, criminal reports, complaint reports and other reports of crimes involving persons that the State intends to call as witnesses at the Trial of this matter.

“The suppression of evidence favorable to an accused is itself sufficient to amount to a denial of due process.” *Brady v. Maryland*, 373 U.S. 83, 87 (1963). “The suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Id.*

“[T]he individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police.” *Kyles v. Whitley*, 514 U.S. 419, 437-38 (1995). “[T]he prosecutor is duty bound to demand compliance with disclosure responsibilities by all relevant dimensions of the government.” *United States v. Osorio*, 929 F.2d 753, 762 (1st Cir. 1991).

According to the ABA Standards, a prosecutor's obligation extends to a material in possession or control of persons who have "participated in the investigation or evaluation of the case and who either regularly report or, with reference to the particular case, have reported to the prosecutor's office." Standards for Criminal Justice, Discovery and Procedure Before Trial, Standard 11-2.1(d) (2d ed. 1980).

Headers used in this request are for the benefit of readability, they are in no way meant to control or limit interpretation of the request.

Further, the Accused hereby requests any evidence meeting the descriptions outlined above be preserved, not destroyed, and a copy be provided to the Accused's Counsel.

This demand for discovery, as well as all other motions and objections in this case, whether or not specifically noted at this time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the U.S. Constitution generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article I, Sections 5, 8, 9, 10, 11, 14, 16, and 39.

The Accused hereby requests an answer, in writing, on whether or not this request will be honored, within ten (10) days after receipt hereof, and if the Defendant does not receive an answer to the request in ten (10) days, he shall treat such an action as a rejection of his request and he may proceed to file a MOTION TO COMPEL DISCOVERY.

This request is continuing in nature. If, subsequent to compliance to this request, the Government discovers additional responsive materials, those materials shall promptly be

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transmitted to defense counsel. In the event the State refuses to transmit such materials, the Government shall advise defense counsel of the noncompliance to allow for a determination of the discoverability of the materials, pursuant to Crim. R. 16.

Respectfully submitted,

**BAILEY LEGAL GROUP**

  
Kenneth R. Bailey  
Attorney for the Accused. Amanda Hovanec



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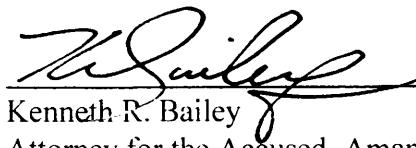
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C E R T I F I C A T I O N

I hereby certify that a true copy of the foregoing was served on:

Michael Freeman, Assistant U.S. Attorney  
Alissa Sterling, Assistant U.S. Attorney  
OFFICE OF THE U.S. ATTORNEY  
Four Seagate, Suite 308  
Toledo, Ohio 43604

by the Court's Electronic Filing System on the 29th day of September 2022.

  
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Kenneth R. Bailey  
Attorney for the Accused, Amanda Hovanec

